

**CITY COUNCIL  
CITY OF CEDAR SPRINGS  
Kent County, Michigan**

Council Member **Neil Gomez**, supported by Council Member **Christine Fahl**, moved the adoption of the following ordinance:

**ORDINANCE NO. 167**

**AN ORDINANCE TO AMEND SECTIONS 40-5 AND 40-461 AND TO ADD SECTIONS 40-134 AND 40-467 TO THE CITY OF CEDAR SPRINGS ZONING ORDINANCE TO REGULATE THE DISPENSATION OF MEDICAL MARIHUANA WITHIN THE CITY**

THE CITY OF CEDAR SPRINGS ORDAINS:

Section 1. Amendment. Section 40-5 and 40-461 of the City of Cedar Springs Zoning Ordinance, as amended, are amended and Sections 40-134 and 40-467 are added to read as follows:

Section 40-5 - Definitions—K—M.

*Light industrial* means manufacturing facilities whose external, physical effects have a minimum detrimental effect on the adjacent land uses such that noise and emissions are not detectable from the property lines and trucking activities are limited.

*Lodginghouse* means primarily a dwelling where lodging, with or without meals, is furnished on a weekly or monthly basis to three or more persons who are not members of the family occupying and operating the premises, but not necessarily to anyone who may apply.

*Lot* means a parcel of land occupied or intended to be occupied by one main building and the accessory buildings and uses customarily incident to such main building, and including such open spaces, parking spaces, and loading spaces as are required by this chapter. The term "lot" includes the terms "plot" or "parcel." A lot need not be a lot of record.

*Lot characteristics.*

- (1) *Lot area* means the total horizontal area within the lot lines of a lot.
- (2) *Lot coverage* means the part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.
- (3) *Lot depth* means the mean horizontal distance from the front street line to the rear lot line. In the case of

an acreage lot, the lot depth is measured from the front right-of-way line to the rear property line.

- (4) *Lot width* means the horizontal distance between the side lot lines, measured at the two points where the building setback line intersects the side lot lines.

*Lot lines.*

- (1) *Front lot line.* In the case of an interior lot, means the line separating such lot from the abutting street right-of-way. In the case of a corner lot, both street frontages shall be considered the front lot line, and shall be subject to all applicable front yard setbacks. In the case of a double frontage lot, the front lot line shall be that line separating said lot from that street which provides access to the lot.
- (2) *Rear lot line.* Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular or triangular-shaped lot, a line at least ten feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining depth of rear yard. In cases where none of these definitions are applicable, the zoning administrator shall designate the rear lot line.
- (3) *Side lot line.* The term "side lot line" means any lot line which is neither a front lot line nor a rear lot line.

*Lot of record* means a lot which is part of a legally approved subdivision plat as shown on the records of the county register of deed, or a lot or parcel described by metes and bounds that is legally divided and approved by the city assessor pursuant to the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq.).

*Lot types.*

- (1) *Corner lot* means a lot located at the intersection of two or more streets and at an angle of intersection of not more than 135 degrees.
- (2) *Double frontage lot* means a lot extending through a block from one street to another.
- (3) *Interior lot* means a lot other than a corner or double frontage lot with only one lot abutting a street.

*Main building* means the building in which is conducted the principal use of the lot upon which it is situated.

*Manufactured home* means a residential building, dwelling unit, dwelling room, or a building component, which is designated for longterm occupancy as a dwelling unit or portion of a dwelling unit, and is wholly or substantially constructed at an off-site location, transported to a site and erected.

*Marihuana*, also known as *marijuana*, also known as *cannabis* shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7106 *et seq.*, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26423(d). Any other term pertaining to marihuana used in this ordinance and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or in the State Administrative Rules, being R 333.101 through R 333.133, as amended, issued in connection with that Act.

*Medical use of marijuana* means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 *et seq.*

*Motel* means groups of furnished rooms or separate structures providing sleeping and parking accommodations for transients.

#### Sec. 40-461 - Home occupations.

- (a) The regulations of this section are intended to ensure that home occupations remain subordinate to the residential use, that the residential viability of the dwelling is maintained, and that home occupations shall not be a detriment to the character and livability of the surrounding neighborhood.
- (b) Home occupations may be approved by the Zoning Administrator, who shall issue a permit upon receipt of an application from the applicant stating his or her intent to comply with the requirements of Section 40-461, payment of a permit processing fee as established by resolution of the city council from time to time, and a determination that the requirements of Section 40-461 have been met.
- (c) As part of the review process, the applicant for a home occupation permit shall submit an accurate drawing illustrating the property, the dwelling on the property, the dimensions and square footage of the dwelling, the dimensions and square footage within the dwelling to be

devoted to the home occupation and the area proposed for on-site parking.

- (d) Home occupations must meet and be continually compliant with the following standards throughout the life of the home occupation, unless otherwise provided herein:
- (1) No person other than immediate members of the family residing on the premises shall be engaged in such occupation.
  - (2) The dwelling unit used for the home occupation shall conform to all applicable zoning district requirements.
  - (3) The home occupation shall not violate any state or local building, housing, fire or other codes or ordinances.
  - (4) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent (25%) of the gross floor area of the dwelling unit shall be used in the conduct of the home occupation. For purposes of Section 40-461, gross floor area shall mean the total floor area of the dwelling unit as measured from the interior faces of the exterior walls excluding the attic, porch, breezeway, patio, deck, attached garage and an unfinished or uninhabitable basement as defined by the applicable building code. No part of an accessory building, either attached or detached, shall be included in gross floor area.
  - (5) There shall be no changes in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two square feet in area, non-illuminated, and mounted flat against the wall of the main building.
  - (6) The home occupation shall be operated entirely within the main building and no home occupation shall be conducted in any accessory building.

- (7) There shall be no sale of products or services except as are produced on the premises by such home occupation.
  - (8) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
  - (9) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, light, fumes, odors, or electrical interference detectable to the normal senses off the premises, if the occupation is conducted in a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuation in line voltage off the premises.
  - (10) No home occupation shall be permitted which would increase traffic, create fire or safety hazards, noise, dirt, odor, dust, gas, glare, fumes, vibration or other nuisance elements.
- (e) Clinics, hospitals, nurseries, day care centers, veterinarian's offices, animal hospitals, kennels, millinery shops, among other uses, shall not be considered as home occupations.
- (f) A registered primary caregiver, as defined by and in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 *et seq.* (the "Act"), the State Administrative Rules issued in connection with that Act, being R 333.101 through R 333.133, as amended (the "Administrative Rules"), and the requirements of this section, shall be allowed as a home occupation. Nothing in this section, or in any companion regulatory section adopted in any other provision of this ordinance, is intended to grant, nor shall they be construed as granting, immunity from prosecution for the growing, sale, consumption, use, distribution or possession of marihuana not in strict compliance with the Act and the Administrative Rules.

Also, since federal law is not affected by the Act or the Administrative Rules, nothing in this section, or in any companion regulatory section adopted in any other provision

of this ordinance, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. The Act does not protect users, caregivers or the owners of properties on which medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act. In addition to the requirements set forth in Section 40-461(a) through (e), the following requirements shall apply to a registered primary caregiver and where these requirements conflict with the requirements in subsection (d) above, these requirements shall govern:

- (1) The medical use of marihuana shall comply at all times and in all circumstances with the Act and the Administrative Rules, as amended from time to time.
- (2) A registered primary caregiver must be located outside of a 1,000-foot radius from any school property or library, as defined by the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7410, to insure community compliance with federal "Drug-Free School Zone" requirements.
- (3) Not more than one registered primary caregiver shall be permitted to service qualifying patients per dwelling unit.
- (4) All medical marihuana shall be contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient, as reviewed and approved by the city's building inspector and the city's Police Department.
- (5) All medical marihuana transmitted, dispensed, given, delivered, provided and/or distributed by a registered primary caregiver pursuant to the Act shall be transmitted, dispensed, given, delivered, provided and/or distributed by the registered primary caregiver at the patient's residence or other location of the patient and shall not be transmitted, dispensed, given, delivered, provided and/or distributed by the

registered primary caregiver at the location of the home occupation.

- (6) Because marihuana dispensaries, collectives and cooperatives are prohibited in the City pursuant to Section 40-467, and due to the increased potential for crime, nuisance conditions, and demands for utility services arising out of a medical marihuana home occupation, such home occupations shall be permitted only in single-family dwellings.
- (7) Inspections of dwellings units used for home occupations shall be made by the city's building inspector as follows:
  - (1) Upon the filing of an application for a home occupation permit, an inspection shall be made during which there shall be noted any observed violations of the applicable state construction codes, IPMC and fire code. Reinspections shall be made as necessary to ensure such noted violations have been corrected.
  - (2) An inspection may be made upon a complaint made by any owner, adjacent property owner or occupant of a building, or in the event of a visible defect in the building. During any such inspection, there shall be noted any observed violations of the applicable state construction codes, IPMC, and fire code. Reinspections shall be made as necessary to ensure such noted violations have been corrected.
  - (3) Municipal civil infraction citations may be issued during any inspection or reinspection.
  - (4) Every dwelling unit used for a home occupation shall be inspected at least once every five (5) years. Unless otherwise notified by the city, it shall be the responsibility of the owner of the dwelling unit to schedule and pay for these reinspections.

- (5) Between inspections required by this section, the city may conduct additional inspections in the manner best calculated to secure compliance with this article and this Code upon one or more of the following basis:
  - (a) A complaint basis. As provided within subsection (2) of this section.
  - (b) A violation basis. If the city has reasonable cause to believe a dwelling unit is in violation of a city ordinance or applicable law or regulation, the dwelling unit will be inspected within a reasonable time.
  - (c) A recurrent violation basis. Dwelling units that are found to have a high incidence of recurrent or uncorrected violations may be inspected more frequently.
- (6) Unless otherwise agreed, the property owner or occupant shall schedule the necessary inspections to take place during regular business hours and all applicable inspection fees shall be paid by the property owner or occupant prior to inspection.

Section 40-134 - Prohibited uses.

Where a use is defined or listed as a permitted use or a special land use in a given zoning district, such use shall not be permitted in any zoning district where it is not listed. This is true even if such use might be similar to a listed permitted use.

Section 40-467 - Prohibition of marihuana dispensaries, collectives and cooperatives.

- (a) The following uses are considered to be unlawful and are prohibited from being established or operated in the City of Cedar Springs:
  - (1) A marihuana collective or cooperative that is operated for profit or not-for-profit; and
  - (2) A marihuana dispensary or dispensary that is operated for profit or not-for-profit.



- (b) For purposes of this section, “marihuana collective or cooperative” and “marihuana dispensary or dispensary” mean any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient as defined by the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 *et seq.* (the “Act”), or a person in possession of an identification card issued under the Act or in possession of an application for such an identification card.
- (c) For purposes of this section, the terms “marihuana collective or cooperative” and “marihuana dispensary or dispensary” shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his or her five or fewer designated qualifying patients in strict accordance with the Act or the Administrative Rules issued in connection with that Act, being R 333.101 through R 333.133, as amended, and the applicable requirements of this Zoning Ordinance.
- (d) For purposes of this section, the terms “marihuana collective or cooperative” and “marihuana dispensary or dispensary” shall not include a State-licensed health care facility; a State-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the State of Michigan.

Section 2. Repeal. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, repealed.

Section 3. Effective Date. This Ordinance shall take effect seven days following its publication in *The Cedar Springs Post*, a newspaper of general circulation in the City of Cedar Springs, consistent with state law.

YEAS: Councilor(s): Christine Fahl, Charlie Watson, Ashley Bremmer, \_\_\_\_\_  
Ken Benham, Pam Conley, Pat Capek, Neil Gomez \_\_\_\_\_

NAYS: Councilor(s): None \_\_\_\_\_

ABSTAIN: Councilor(s): None \_\_\_\_\_

ABSENT: Councilor(s): None \_\_\_\_\_

CERTIFICATION

I certify that this Ordinance was adopted by the City Council of the City of Cedar Springs at a regular meeting of the City Council on August 11, 2011, and published in *The Cedar Springs Post*, a newspaper of general circulation in the City of Cedar Springs, on August 18, 2011.

Date: August 11, 2011

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Linda Branyan, City Clerk

Introduced: August 11, 2011

Adopted: As an emergency ordinance August 11,, 2011

Published: August 18, 2011

Effective: August 25, 2011